

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

**JAMES DAVID SANDERS,**

**Plaintiff,**

**v.**

**JODY MOSES and EDDIE FARRIS,**

**Defendants.**

**NO. 2:20-cv-00014**

**ORDER**

Before the Court is a Report and Recommendation (“R&R”) (Doc. No. 10) that recommends dismissal without prejudice of this *pro se* civil rights case for failure to prosecute under Fed. R. Civ. P. 41(b). To date, Plaintiff has not returned service packets for either Defendant Jody Moses or Eddie Farris, has not responded to either of Farris’ two motions to dismiss, and has not responded to the Magistrate Judge’s May 5, 2020 Show Cause Order to explain why this case should not be dismissed for failure to prosecute. (Doc. No. 10 at 2).

On September 17, 2020, after the period for timely objections had lapsed, Plaintiff sent a one-page letter dated September 13, 2020 providing a change of address. (Doc. No. 11). Before this time, Plaintiff’s address of record was the Putnam County Jail. Service packets were sent to that address on March 20, 2020. (Doc. No. 5). The first motion to dismiss was mailed to that address on or about April 7, 2020, (Doc. No. 6), and on April 8, 2020 the Magistrate Judge sent to that address an order for Plaintiff to respond to the motion (Doc. No. 7). The same is true of the Magistrate Judge’s show cause order, (Doc. No. 8), the second motion to dismiss, (Doc. No. 9), and the R&R (Doc. No. 10). No documents have been returned to the Court as undelivered.


Under the common-law mailbox rule, receipt is presumed of properly addressed mail. Censke v. United States, 947 F.3d 488, 490 (7th Cir. 2020) (applying to prisoner); Tillman v. Macy's, Inc., 735 F.3d 453, 458 n.1 (6th Cir. 2013) (citing Hagner v. United States, 285 U.S. 427, 430 (1932)). Additionally, a mail log provided by Farris shows that Plaintiff received the March 20 service packets, April 8 Order, and the first motion to dismiss. (Doc. No. 9-2 at 4). See Hagner, 285 U.S. at 430.

Plaintiff's letter of September 13, 2020 contains no objections to the R&R, and makes no reference to any fact or conclusion contained in the R&R. Fed. R. Civ. P. 72(b)(2) (stating that only "specific" objections to the magistrate judge's proposed findings and recommendations are considered proper for the district court's consideration); see L.R. 72.02(a). While stating that he "still want[s] to proceed with" his case, (Doc. No. 11), Plaintiff's letter does not offer any explanation for why he failed to respond to the Court's show cause order or to the motions to dismiss.

The Court has reviewed the R&R and agrees with its findings and recommended conclusion. Accordingly, the R&R (Doc. No. 10) is **APPROVED AND ADOPTED**. This action is **DISMISSED WITHOUT PREJUDICE**, and Farris's motions to dismiss (Doc. Nos. 6, 9) are **DENIED AS MOOT**.

This is a final order and the Clerk is directed to enter judgment.

IT IS SO ORDERED.

  
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WAVERLY D. CRENSHAW, JR.  
CHIEF UNITED STATES DISTRICT JUDGE